

Before the Independent Hearing Panel
Appointed by the Central Otago District Council

Under the Resource Management Act 1991

In the matter of Private Plan Change 14 to the Central Otago District Plan

Memorandum of Counsel on behalf of NZ Cherry Corp

11 May 2020

Applicant's solicitors:

Sarah Eveleigh
Anderson Lloyd
Level 3, 70 Gloucester Street, Christchurch 8013
PO Box 13831, Armagh, Christchurch 8141
DX Box WX10009
p + 64 3 379 0037 | f + 64 3 379 0039
sarah.eveleigh@al.nz

**anderson
lloyd.**

May it please the Commissioners:

- 1 This memorandum is filed on behalf of NZ Cherry Corp (Leyser) LP Ltd (the **Proponent**). It responds to the memorandum on behalf of the Residents for Responsible Development Cromwell (**R4RDC**) dated 9 June 2020.

Commissioning of an independent report under section 41C

- 2 R4RDC requests that the Commissioners commission an independent consultant to prepare a report on the issue of water availability and its efficiency of use for productive purposes on the site.
- 3 In the Proponent's view, such a report is not required.
- 4 In relation to availability of water, the Commissioners have now received the expert evidence of Mr Tom Heller. He is a highly experienced hydrologist / hydro-geologist with particular knowledge of this location. His evidence incorporates a review of the relevant information available from the Otago Regional Council, including a detailed technical report prepared for the purposes of a Cromwell Terrace Aquifer specific plan change to the Otago Regional Plan: Water (Plan Change 4C). You can have a high degree of confidence in his assessment regarding the reasonably expected availability of water (noting that this remains subject to a discretionary consent process¹).
- 5 In terms of water use, there will be a range of potential productive land uses which would have different demands for water and land. Some of these will be economically viable and preferred. Given the site characteristics and predominant land uses in the area, the Proponent's evidence² is that cherries would be the preferred crop in this location. The Proponent has presented evidence as to water demands for a cherry orchard, consistent with its existing commercial operation which is focussed on high-quality product.³ That is a valid assessment of the extent of productive use that could be supported by any further water that could be secured, notwithstanding the range of other factors that would influence whether such development was undertaken.⁴
- 6 Any assessment of productive use is speculative, because NZ Cherry Corp owns the land and has before it a range of options for use of the land, in respect of both the cherry orchard extension (which would be confirmed through PC14), and the remainder of the site. In my submission an assessment of the water demand of

¹ Supplementary evidence of Peter Dymock; Evidence of Tom Heller, paragraph 34

² Evidence of Paul Edwards, paragraphs 45 - 49

³ Evidence of Ricky Larsen, paragraph 49; Second supplementary evidence of Ricky Larsen, paragraph 29

⁴ Evidence of Paul Edwards, paragraphs 38 – 56; Evidence of Ricky Larsen, paragraphs 40 - 50

uses which are less preferable and not likely to occur on the site is not sufficiently useful to the Commissioners' decision making to warrant the commissioning of an independent report.

- 7 We understand that the Commissioners will be reviewing the evidence received early next week and will advise whether you consider any further information is required.

Engagement with R4RDC

- 8 The Proponent confirms that positive progress has been made between R4RDC and the Proponent, and that discussions between the parties are ongoing. Any amendments to the proposal arising from those discussions will be addressed in Reply.

Dated this 11th day of June 2020

A handwritten signature in black ink, appearing to read 'S Eveleigh', with a stylized flourish at the end.

Sarah Eveleigh
Counsel for NZ Cherry Corp (Leyser) LP Ltd